

BUDGET AND APPROPRIATION REGULATIONS
Regulation # R100-01:AC-01

Chapter 1. Purchasing and Procurement

Section 1. Authority; Purpose

1-1. *Authority.* In accordance with Section 4.10 (e) of the Budget and Appropriation Ordinance, # 01-100-04, the Tribal Council hereby promulgates these rules for purchasing and procurement by the Little River Band of Ottawa Indians.

1-2. *Purpose.* This policy is intended to provide a framework for ensuring that Tribal purchase transactions are understood, and accompanying procedures are uniformly applied. Guidelines are intended to support purchasing activities of the Tribe, create a managed purchasing system, and conform to the Constitutional requirements for ratification and approval by Tribal Council.

Section 2. General Policies

2-1. *Applicability.* This policy shall be followed for all Tribal Government Purchases and Agreements that require the Tribe to fulfill non-monetary obligations. The policies covered in this regulation address (1) purchase of supplies and equipment for program and Tribal use and (2) contracts for professional services and maintenance type services.

It should be noted, processing of payments, such as contract health and extended health services provided to tribal members and other related payments for health care, and recurring bills (i.e. utilities, telephone, ect.) for normal operating expenses, do not apply to this regulation.

2-2. *Justification.* All purchase and contract actions must be justifiable and support legitimate Tribal program objectives.

2-3. *Pricing.* Purchasing and contract actions will be based on competitive pricing to the greatest extent possible and exceptions shall be documented and approved. Competitive pricing as used in this policy means obtain price quotes or bids from multiple vendors to assure the lowest price on quality goods and services.

2-4. *Purchasing Authority.* All purchases are to be made by the Purchasing Department. Purchase variances must not exceed 10% above the suggested price, excluding shipping and handling.

2-5. *Approval.* It is the intent of these policies to treat purchases as a logical group. Purchases shall not be broken or separated into smaller amounts to avoid necessary levels of approval.

2-6. *Contracts.* All purchases shall be accompanied by an original signed contract or purchase order which shall be filed with the Purchasing Department.

2-7. *Legal Review.* All contracts and other forms of agreements shall require a written legal review by a Tribal Attorney. If revisions are recommended by the Attorney, documentation must be provided to identify that the final contract was resubmitted for a final legal review.

2-7[a]. *Contract Authorization and Ratification Required.* All contracts and Agreements shall be required to have ratification by the Tribal Council, in accordance with Article IV, Section 7(b) and Article V, Section 5(a)(3) of the Constitution, subject to the provisions for contracts with a value of \$00.01 to \$2,500.00 as set forth in Section 3-2 below.

Section 3. Contract Authorization Levels

3-1. *Monetary Authorization.* No employee is authorized to bind or commit the Tribe to the purchase or any goods or services.

3-2. *Contracts and Purchase Requisition Approval.* Program Directors shall place all purchases through the Purchasing Office and shall obtain approval as set forth in this section. Program Directors shall request the Purchasing Office, after

approval by the Ogema, to negotiate all purchases in excess of \$8000.01. The following value and authority levels limit authority to initiate the development of purchase requests and/or contracts.

- a. For contracts with the value of \$00.01 to \$2500.00, authorization from Purchasing Supervisor, Program Director, and
 1. For Ogema Operations – The Ogema
 2. For Tribal Council – The Speaker or Recorder
 3. For Tribal Court – The Chief Judge of the Tribal Court
- b. For purchase orders with the value of \$00.01 to \$1500.00, with authorization from the Purchasing Supervisor and the Program Director.
- c. For purchase orders with the value of \$1500.01 to \$8,000.00, with authorization from the Ogema or Tribal Manager and the Purchasing Supervisor.
- d. All purchases over \$8,000.01, with authorization by the Tribal Ogema and Tribal Council and the Purchasing Supervisor. In addition, for purchases over \$8,000.00 verification that vendors/contractors are not debarred or suspended from participation in federal assistance programs shall be attached.

3-3 Ratification and Approval of all Agreements Required. Notwithstanding the above, all Agreements between the Little River Band and federal, state, and local governments and other tribal governments, or with private persons or organizations, that bind the Tribe to non-monetary obligations, require Tribal Council ratification and approval in accordance with Article V, Section 5(a)(3) and Article IV, Section 7(b) of the Constitution and Resolution #09-0429-111.

Section 4. Responsibilities

4-1. *Program Directors.* Program Directors are responsible for achieving program goals and at the same time conserving Tribal resources and maintaining accountability. Their responsibilities begin with the development of a sound program budget. As managers, their primary responsibilities in relation to purchasing are:

- a. Exercising control over expenditures, to ensure that they do not exceed amounts allotted in the budget and that they are consistent with purposes detailed in the budget.
- b. Ensuring that transactions are made with adequate planning and that emergency buying is avoided.
- c. Ensuring that all requisitions are prepared properly.
- d. Coding expenditures properly.
- e. Determining that expenditures are completed within the performance period for the grant program, which they support.
- f. Provisions of certain Tribal grants and contracts may apply policies or require practices, which lie beyond those defined in this policy. Whenever funds under a specific federal grant or contract are used for purchasing or contracting purposes, it is the responsibility of the Program Director to abide by the terms and conditions of the grant or contract requirements.
- g. Keeping record of all purchases made for back reference and accountability

4-2. *Purchasing Supervisor.* The Purchasing Supervisor is responsible for seeing that all purchasing activities are carried out properly and in a manner that best serves the interests of the Tribe. The Purchasing Supervisor is the person with primary responsibility for representing the Tribe as it enters into agreements with vendors. As such, the Purchasing Supervisor carries out many specific purchasing responsibilities, including:

- a. Seeking competitive quotations, bids, and proposals whenever feasible, to insure that the Tribe obtains quality goods or services at reasonable prices.
- b. Obtaining or providing the appropriate written approval of all purchase actions.
- c. Routing invoices and purchase orders to the Accounting Department.
- d. Maintaining documents regarding purchasing activities for two years.
- e. Maintaining documents regarding contract activities.
- f. Determining whether potential vendors are responsible, for example have resources, personnel, integrity, and overall capability to meet the Tribe's needs successfully.
- g. Purchasing goods for stock and building supplies.
- h. Maintaining a vendor file.
- i. Keeping all vendors aware of Tribal Purchasing Policies and Procedures.
- j. Verifying that all purchasing requirements have been met before issuing a purchase order.

4-3. *Tribal Manager.* The Tribal Manager, or the Ogema's delegate in the absence of a Tribal Manager, is responsible for reviewing a monthly purchasing activities report for purchases under \$1500.00. In addition to the general responsibility, the Tribal Manager holds specific responsibility for:

- a. Approving purchase requests submitted which exceed \$1500.01, but do not exceed \$8000.00.

4-4. *Ogema Review.* The Tribal Ogema is responsible for reviewing a monthly purchasing activities report for purchases under \$1500.00. The Tribal Assistant Manager or Executive Assistant to the Tribal Manager may be delegated responsibility for this review by written memorandum signed by the Tribal Ogema. Provided that, disciplinary actions resulting from non-compliance with these regulations remain the responsibility of the Tribal Ogema.

4-5. *Ogema.* The Tribal Ogema, as the chief administrator for the Tribe, is responsible for overseeing the entire purchasing process. In addition to that general responsibility, the Tribal Ogema holds specific responsibility for:

- a. Approving purchase requests that exceed \$1500.01, but do not exceed \$8000.00.
- b. Approving contract requests that do not exceed \$2500.00, under the Ogema Operations.
- c. Approving purchase requests submitted which exceed \$1500.01, but do not exceed \$8000.00.
- d. Reviewing a monthly purchasing activity report.
- e. Approving agenda requests for purchase requests and contracts, which require resolution approval.
- f. Responsible for executing all contracts.
- g. Responsible for submitting in writing a list of all individuals identified as Program Director to exercise authority under 3.2(a) on an annual basis to Purchasing Department and Controller, and shall be amended and updated with any personnel changes.

4-6. *Tribal Council.* The Tribal Council has final responsibility for management of the Tribe's resources. Its key responsibilities in regard to purchasing are:

- a. Approving program budgets.
- b. Approving purchase requests that exceed \$8000.01.
- c. Approving contract request that exceed \$2500.01.
- d. Approving Agreements that require the Tribe to fulfill non-monetary obligations.

Section 5. Standards of Conduct

5-1. *Ethical Conduct.* It is important that high standards of conduct be maintained at all times to ensure confidence and integrity in the Tribe's purchasing process. All Tribal officers, employees, and agents who are involved in purchasing and contracting activities must follow the standard of conduct set forth below:

- a. Tribal employees will refrain from participating in a purchasing or contracting action in which a conflict of interest would be involved.
- b. Tribal employees will not accept gratuities, favors, or gifts of monetary value.
- c. Any Tribal employee who has unknowingly obtained any benefit resulting from a purchase or contract will immediately, upon discovery, report the benefit to his or her immediate supervisor.
- d. No employee of the Tribe shall knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any other person.

Section 6. Purchasing Procedures

6-1. *Request for Purchase Order.* Any purchase for goods or services on behalf of the Little River Band of Ottawa Indians must be initiated by submitting a "Requisition" an internal document that conveys to the Purchasing Supervisor the program's request for supplies, equipment, or services. No purchase or contract action may be initiated without a requisition. The requisition shall include the following information:

- a. Date: The date the request is being made.
- b. Program number: Enter in the program number to which the purchase will be charged.
- c. Account number: Enter in the account number from which the purchase amount will be obligated.

- d. Placed by: Whom (employee) is requesting the purchase.
- e. Quantity: The amount of the item.
- f. Description: A clear item description including catalog number, color, size or any other information that may be needed to identify the item.
- g. Page number: Enter in the page number item was found if available.
- h. Source: Enter complete name, address, and phone number of suggested vendor.
- i. Price: Enter in the items unit price and multiplied price if ordering more than one unit.
- j. Approved by: Must be signed by the proper authorized personnel. See authorization levels in this policy.
- k. Justification: Reason for purchase.

6-2. *Issuance of Purchase Order.* The requisition form is sent to the Purchasing Department. Upon receiving all required authorizations a purchase order will be issued.

6-3. *Encumbrance Procedures.* The Purchasing Department shall place orders as follows:

- a. All approved requisition forms shall be assigned a Purchase Order number.
- b. The Purchasing Office shall provide documentation prior to placing an order that funding is available to support the request for purchase. Supporting documentation shall be attached to the purchase order. The Purchasing Office will match orders according to price and supplier and verify pricing.
- c. The Vendor will be phoned, faxed, or mailed. A description of the item should include color, size, and any additional information that may be needed.
- d. The Purchase Order is then entered into the Accounting System.
- e. An original Purchase Order is printed and signed. A copy shall be routed to Program Director and the Receiving Office.
- f. Departments are responsible for maintaining copies of their own request. The purchase order number that is assigned to an order can also be used to lookup an order that may require an item to be returned or used for future orders of a similar item.
- g. All purchase orders shall identify a shipping address and an invoicing address. All invoices shall be mailed to Accounts Payable. When the invoice arrives with the goods, the invoice shall be routed to Accounts Payable.

6-4. *Procurement Transactions*

- a. Micro procurement transactions shall be used when purchasing supplies and equipment under \$100,000 in value.
- b. Major procurement transactions shall be used when purchasing supplies and equipment in excess of \$100,000 in value and shall require open solicitation and bidding.
- c. *Standing Purchasing Orders.* When business with a vendor is on a regular basis and purchases or service dollar amounts vary, it may be more cost effective to establish a standing purchase order with the vendor. A Standing Purchase Order shall be generated and maintained in the same fashion as the Purchase Order request, with the following conditions noted; the dollar amount not to exceed, a time limitation, and the personnel approved to make charges against the standing purchase order.

6-5. *Quotes & Bidding Requirements*

- a. Required Competitive Quotations. An adequate number of quotations from qualified sources are required. There are two different methods to soliciting for price quotes – oral and written. To ensure the needs of the Tribe are met and at the same time ensuring that an adequate number of quotes are obtained.
 - 1. For purchase requests up to \$1,000.00, oral quotes are sufficient but in some cases it is more adequate to request a bid in writing. Adequate competition should still be sought for purchases under \$1,000.00 if the Purchasing Supervisor determines it to be feasible. The following factors must be taken into account when determining if it is adequate to obtain more quotes:

- A. What is known about recent and similar purchases.
- B. Soliciting bids outweighs the monetary value of the good.
- C. In cases where the Purchasing Supervisor determines it to be more efficient, purchase orders can be issued for an amount not to exceed. For cases such as these, the amount shall never exceed \$250.00. The requisition shall list the requested items. The purchase order shall show, the determined not to exceed amount.
- D. Items that are purchased under a GSA contract.
- E. Written quotes are required for items purchased exceeding \$1,000.00 any exceptions must be documented and approved by:

- 1. For Ogema Operations – The Ogema. The Tribal Manager may be delegated this responsibility with a written memorandum from the Tribal Ogema.
- 2. For Tribal Council – The Speaker or Recorder
- 3. For Tribal Court – The Chief Judge of the Tribal Court
- 2. For IHBG programs, purchases of less than \$5,000.00, only one quote is required, provided the quote is considered reasonable.

6-6. *Bidding Process.* All bids shall be generated in the following manner:

- a. The Program Director will provide the Purchasing Department with a description of equipment or service expectations/needs.
- b. The Purchasing Department will contact the source or sources and notify them of the opportunity to bid.
- c. Bids must be submitted in writing within a predetermined time frame.
- d. The following restrictions and requirements must be followed in order to obtain a fair and just bid.
 - 1. Bids must be in writing.
 - 2. All bids are confidential.
 - 3. All copies of bids shall be attached to the purchase order.

6-7. *Sources.* The Purchasing Supervisor will compile and maintain a list of sources of supply for the various goods and services which the Tribe purchases regularly, this will eliminate the need to perform unnecessary research. The source lists will include the following:

- a. Name of vendor.
- b. Telephone number of vendor.
- c. Name of the tribes sales representative.
- d. Type of goods or services the vendor provides.

6-8. *Sole Source Bidding.* Programs may from time to time have immediate needs to meet program objectives or to protect the health and safety of employees or Tribal Members. In such cases documentation and approval must be obtained from

- a. For Ogema Operations – The Ogema. The Tribal Manager may be delegated this responsibility with a written memorandum from the Tribal Ogema. For Tribal Council – The Speaker or Recorder
- b. For Tribal Court – The Chief Judge of the Tribal Court

6-9. *Documenting Quotes.* All quotes must be documented. A record is necessary to show that competition was obtained when feasible and to be utilized for future purchases. All soliciting documents shall be attached and remain with the purchaser order.

6-10. *Evaluating Quotes and Selection of Vendor.* Indian preference must always be a factor when evaluating quotes and in the vendor selection process. The Purchasing Supervisor shall evaluate the quotes received and determine which quote is the most favorable buy. The price should be the determining factor, but in cases where the Purchasing Supervisor

determines that the bidding vendor is not responsible and cannot fulfill the requirement properly and on time, these requirements must be considered over price. The Tribe shall make procurement awards only to responsible entities that have the ability to perform successfully under the terms and conditions of the proposed procurement. In making this judgment, awards shall be based on evaluation criteria.

6-11. *Disputes.* Any claim by a vendor/contractor shall be submitted in writing to the Purchasing Supervisor. Disputes must be received in writing within ten (10) calendar days after the award. Disputes received after (10) ten calendar days will not be considered. The Purchasing Supervisor, at his or her discretion, can suspend the procurement pending resolution of the protest, if warranted by the facts presented. The claim shall be subject to a written decision by the Purchasing Supervisor, which is final unless the vendor/contractor appeals the matter. Appeals shall be submitted in writing to the Ogema, whose decision is final.

6-12. *Receiving.* Shipments shall be delivered to the Receiving Department unless otherwise specified by the Purchasing Department. The procedure for receiving goods is as follows:

- a. Packing slips must be matched by the purchase order.
- b. The Receiving Department shall inspect all shipments to make assure they have been received in good condition and in the proper quantity.
- c. As shipments are received, a check mark shall be entered on the packing slip beside the item to demonstrate that the item was received.
- d. Every received order must be stamped as "received" and initialed by the receiving personnel.
- e. Once the order has been received, receipt of the order is entered into the Accounting system.
- f. The packing slip or invoice shall be forwarded to Accounts Payable for payment and closeout.
- g. Purchases will be delivered by the Receiving Department.

6-13. *Back Orders.* When purchasing supplies on a daily basis, situations will occur where the entire order is not received on the same date. Such an occurrence places the order in a backorder status. Upon receiving notice of a backorder, the receiving office shall notify the purchasing program that the order has been placed on backorder.

Section 7. Adoption; Amendment; Repeal

7-1. *Adoption.* This Chapter is adopted by the Tribal Council on March 6, 2002 by resolution # 02- 0306-07 and amended by resolution # 03-0618-177, and resolution # 04-0515-205, as amended by resolution # 04-1201-481, resolution 04-1218-526, resolution #07-0131-64, resolution #08-0709-235, resolution #09-0429-111; resolution 10-0303-66, and 10-0714-248.

7-2. *Amendment.* This regulation may be amended by the Tribal Council or by submission of amendments by the Tribal Ogema approved by the Tribal Council, in accordance with the Constitution and any rules set forth governing amendment of regulations of the Little River Band of Ottawa Indians.

7-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

7-4. *Compliance.* In regards to compliance with this regulation, deviation from the requirements of this regulation must be noted and corrected. Failure to follow the requirements of this regulation may result in disciplinary action, up to and including termination from employment and action to recover expenditures resulting from unauthorized actions.

7-4 *Repeal.* This regulation may be repealed in accordance with the Administrative Procedures Act.